

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter of )  
4 ) **CASE CLOSURE UNDER THE**  
5 **MUR 6067** ) **ENFORCEMENT PRIORITY SYSTEM**  
6 )  
7 **BUHRMASTER FOR CONGRESS** )  
8 **AND CALVIN WELCH, AS** )  
9 **TREASURER** )

10  
11 **GENERAL COUNSEL'S REPORT**

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13 Under the Enforcement Priority System, matters that are low-rated

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15 are forwarded to the Commission with a recommendation for dismissal. The  
16 Commission has determined that pursuing low-rated matters, when compared to other,  
17 higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial  
18 discretion to dismiss these cases.

19 The Office of General Counsel scored MUR 6067 as a low-rated matter. The  
20 complainant, Warren Redlich, alleges that the James Buhrmaster for Congress Committee  
21 and Calvin Welch, as treasurer ("Committee"), failed to report an expenditure for legal  
22 representation in a lawsuit concerning a nominating petition in which candidate Jim  
23 Buhrmaster questioned the validity and sufficiency of the nominating petitions of Steven  
24 Vasquez, a competing candidate for the Republican nomination for New York's 21<sup>st</sup>  
25 Congressional district seat. During the lawsuit, Mr. Redlich represented Mr. Vasquez  
26 and Tom Marcelle represented Mr. Buhrmaster, which culminated in a hearing on July  
27 30, 2008. The Complaint alleges that Mr. Marcelle's legal fees were not reported as  
28 expenditures by the Committee or as an in-kind contribution from Mr. Marcelle to the  
29 Committee on its 2008 Pre-Primary Report.

The Committee responded by noting that Mr. Marcelle did not normally bill his clients until the end of the quarter. The Committee offered in its response to determine the proper amount for the expenditure and reflect the debt on its reports. The Committee also requested guidance from the Commission as to whether the Committee should amend its previously filed disclosure reports.

Subsequently, the Committee reported a \$3,500 outstanding debt to Mr. Marcelle on its 2008 October Quarterly Report. Thereafter, the Committee continued to carry the debt on subsequent disclosure reports until it reflected a payment of the obligation (dated October 31, 2008) on its 2008 Post General Report.

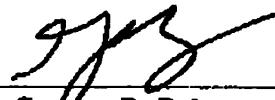
In light of the de minimis amount involved in the alleged reporting violation, coupled with the actions taken by the Committee, and in furtherance of the Commission's priorities and resources, relative to other matters pending on the Enforcement docket, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss this matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

#### RECOMMENDATION

The Office of General Counsel recommends that the Commission dismiss MUR 6067, close the file, and approve the appropriate letters.

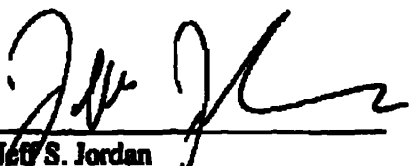
Thomasenia P. Duncan  
General Counsel

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